HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.5669/2006

PETITIONER		Chonhas Toppo, Son of Late Shri Dhan Masih, aged about 42 years, Working as a Lab Technician, Govt. Polytechnic College, Ambikapur, District Surguja (C.G.), Resident of Polytechnic Colony, Ambikapur, District Surguja (C.G.)
		Versus
RESPONDENTS	1	State of Chhattisgarh, Through : The Secretary, Department of Technical Education, D.K.S. Bhawan, Raipur.
	2	The Director, Department of Technical Education, Raipur (C.G.)
	3	The Principal, Govt. Polytechnic College, Ambikapur, District Surguja (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri V.K. Pandey, Counsel for the petitioner.
Shri A.S. Kachhwaha, Govt. Advocate for the State/respondents.

ORAL ORDER
(25.10.2007)

SUNIL KUMAR SINHA, J.

Heard.

The petitioner, who is working on the post of Lab Technician, was transferred from Government Polytechnic College, Ambikapur to Government Polytechnic College, Takhatpur by order dated 7/7/2006 on administrative grounds.

While hearing this Writ Petition on 30.10.2006, this Court directed that the status quo, as obtained on 30.10.2006, shall be maintained till further orders.

Learned counsel for the petitioner submits that the petitioner was nominated as the Secretary of Scheduled Castes and Scheduled Tribes Officers & Employees Union (AJAKS), District Surguja, therefore, on the basis of various circulars of the government, his transfer should not have been effected.

The return has been filed in this case. Vide para 11 of the return, Government has taken stand that the petitioner was transferred vide order dated 07.07.2006 and at that time, the petitioner was not nominated as the Secretary of Scheduled Castes and Scheduled Tribes Officers & Employees Union (AJAKS), District Sarguja. However, he was nominated subsequently and the answering respondent had no information about the said nomination. The petitioner was transferred purely on administrative grounds and without any malice, therefore, all adverse allegations raised by the petitioner are denied by the State.

It is well settled principles of law that transfer is an incidence of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. The Court has limited jurisdiction to interfere with the transfer matter and this Court can interfere only in case of proved malafide, extraneous consideration, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules, regulations and the Act, if any.

Be that as it may, for the present, as about 1 year 3 months has already elapsed after passing of the interim order of status quo on 30.10.2006 and it is stated by learned counsel for the petitioner that the petitioner is still continuing at Government Polytechnic

College, Ambikapur, therefore, it is not necessary to examine the validity of the transfer order at this stage.

In view of the foregoing reasons, this petition stands disposed of as having become infructuous.

However, in the facts of the case, it is expected that the State/respondents shall not insist upon compliance of the order dated 7/7/2006. Needless to say that the respondents are at liberty to pass appropriate orders in the public interest and administrative exigencies.

Sd/-
Sunil Kumar Sinha
Judge